A.—(*a*) *to* (*c*), (*e*) & (*f*) The Government have no information but have called for a report.

(*d*) Yes. The path is not an admitted right of way and the particular coupe is closed to grazing. The ryots failed to take advantage of the concession offered.

(*g*) No. The Government have already indicated the lines on which the path can be thrown open. An extract of the Government Order [a] is appended.

II

ADJOURNMENT MOTION REGARDING THE AUTHORIZATION OF EXPENDITURE UNDER PROVISO (*b*) TO SECTION 72-D (2) OF THE GOVERNMENT OF INDIA ACT.

Mr. P. C. VENKATAPATHI RAJU :—" Mr. President, Sir, under Standing Order 20, I request leave to make a motion for the adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance, namely, the action of the Government in submitting their proposal for expenditure of Rs. 51,620 for Police arrangements at the time of the visit of the Indian Statutory Commission (referred to in G.O. No. 100, Judicial, dated 23rd February 1929), to His Excellency the Governor for authorization under proviso (*b*) to section 72-D (2) of the Government of India Act, instead of to the vote of the Council."

* The hon. the PRESIDENT :—" Has the Advocate-General got anything to say on this question of order ?"

* Mr. ALLADI KRISHNASWAMI AYYAR :—" I submit, Mr. President, that this motion is not in order for the following reasons : It cannot be stated to be a matter of urgent public importance. If the object of the motion is to criticise the action of the Government in availing themselves of the procedure as to obtaining the consent of the Governor instead of obtaining the consent of the Council, it can be done by the ordinary procedure available to any Member of this House. If the Members want to repeal that particular provision, that cannot be achieved by them by ventilation of their views just at the present moment. It may be right or it may be wrong, from the constitutional point of view, to have a provision like section 72-D, but there it is. To the extent to which the statutory power is vested in the Governor, he stands in the same position as the Council. (Dr. B. S. Mallayya : More than the Council.) Besides, it is not likely that this emergency will occur again in the near future. The Simon Commission has come and gone and the expenditure has been incurred ; and the particular procedure has been availed of by the Government and in the near future there is no chance of this procedure recurring. (Mr. K. R. Karant : Why not ?)

" The second point is, if, for example, for the first time in the history of the Government of India Act, the machinery of this proviso has been availed of and a Member apprehends that there is likely to be a repetition of this act, there may be some force in the motion. As a matter of fact, this is not the first instance when this statutory power has been availed of by the Government and when the Local Government submitted their proposal to the Governor for his assent under the proviso. Therefore, whether we look at it

[a] Printed as Appendix X on page 824 infra.

from the point of view of the recurrence of the thing in the immediate future or from the point of view of a new precedent being started, there is no urgency in the motion."

* The hon. the PRESIDENT :—" Regarding that point, can the hon. Member give me an instance where the Governor's sanction was resorted to while the Council was in session ?"

* Mr. ALLADI KRISHNASWAMI AYYAR :—" I am told that in connexion with the expenditure on account of the Malabar Tenancy Committee, the hon. the Law Member adopted this procedure."

* The hon. the PRESIDENT :—" I want to make a distinction between the two: 'When the Council was in session' and 'when the Council was not in session'."

* Mr. ALLADI KRISHNASWAMI AYYAR :—" But, money in this case was wanted on the 23rd February 1929 before the Council met."

* The hon. the PRESIDENT :—" The Council is said to be in session between the date of the summoning by the Governor and its prorogation."

* Mr. ALLADI KRISHNASWAMI AYYAR :—" It was between two sittings, though the Legislative Council was theoretically in session. So far as the circumstances are concerned, the expenditure had to be incurred before the actual day set down for the sitting of the Council. I did not mean when the Council was in session, but when the Council was not sitting. Under the ruling of the Auditor, in a case where token cut was allowed, no expenditure can be incurred by way of anticipation. Therefore, I am told that no expenditure could be incurred. Therefore, if the Government had to incur the expenditure, the only machinery that they could have availed of was to approach the Governor for his assent. The Governor will have to judge whether there is any urgency of the kind contemplated by the proviso and whether the interests of public tranquillity do require the incurring of that expenditure. So far as that judgment is concerned, it is entirely his, and it is not within the purview of this Council. It has been repeatedly pointed out both in the House of Commons and in the Colonies that an urgent motion under this rule is intended to express the opinion of the Council in the matter of a continuing injury or the prevention of a wrong which may be done before the ordinary procedure could be availed of. That is, if there is a grave irreparable injury likely to be done before the Council avails itself of the ordinary procedure, the Government may take an irretrievable step to avert that danger. In the circumstances before you, I submit that it cannot be said that there was an irreparable injury that could be done. For example, before the next session an ordinary resolution could be brought before the House criticising the action of the Government if that action could be criticised. Under these circumstances, it would not be a right use of the power of the motion; there is no immediate urgency for it and moreover, it is not suggested that there is any apprehension that in the near future or in the immediate future any such expenditure is likely to be incurred. I do not believe that this motion is intended to raise the question of the police arrangements in general, because this question was discussed during the discussions on the various cut motions before the House."

25th March 1929]

* The hon. the PRESIDENT :—" They can discuss only one matter and the only matter that they can discuss is the action of the Government in not submitting the proposals to the vote of the House."

* Mr. ALLADI KRISHNASWAMI AYYAR :—" The question is not clearly against the existence of a constitutional provision like that at all. The chance of its being repealed is not the point before the House and certainly that particular provision is not going to be repealed within the next three months as the result of the motion being discussed in the House. The only question is whether that constitutional provision is likely to be availed of in the near future and from the mere fact that in a particular instance it has been availed of, it cannot be presumed as a matter of course that it would be availed of in the near or immediate future. It must sometimes be availed of and it has been availed of in this case. As regards the Simon Commission, there is only one of its kind and it is not likely that the Simon Commission will again visit and so there will be no necessity for police protection. It is not likely that the same emergency will recur, nor can it be expected that the expenditure will be incurred between one sitting and another sitting. This fact will have to be considered before you are able to pronounce that it is an urgent matter. I do not want to deny that it is a matter of public importance. But, I do maintain that there is really no urgency about the matter. There is no principle of evidence or of law which lays down that because on a particular occasion the Government has availed itself of a particular procedure, such instances will go on recurring. Under these circumstances, I submit that it is not consistent with the principles in regard to urgent motions to have a discussion on the matter before the House. There is no question of an irreparable injury being done and there is no question of a continuing wrong being done. In these circumstances, the machinery of the urgent motion is not to be availed of for this purpose. That is what I venture to submit with regard to the motion before the House."

* Mr. S. SATYAMURTI :—" Sir, may I take it that you are now hearing both sides on the question of your consent, Sir? Hitherto we have been bringing forward such motions, and you have been giving your consent." 11-30 a.m.

* The hon. the PRESIDENT :—" Order, order, the question is whether it is in order."

* Mr. S. SATYAMURTI :—" What I wish to say is that we have a large number of precedents. The hon. the Advocate-General has conceded that it is a public matter, that it is a definite matter, that it does not trespass on the rights of the Governor, and that it does not offend against the rules governing the subject matter of such motions. The only simple objection is whether it is one of urgency. You should judge that question in this way; the urgency ought to be judged thus whether the Government are justified in taking that action on the circumstances of the case, and whether steps should be taken to prevent the continuance of that wrong or the repetition or recurrence of that wrong, or rather of that action which the House considers is wrong.

" So far as the fundamental provisions of the Government of India Act are concerned, there is absolutely no difficulty for the Government. If the Council is in session, or if it is immediately after that, they can bring a motion

for grant of money by means of a supplementary grant. This is the first time, I speak subject to correction, when the Council was in actual session when the need for that money arose and yet the assent of this Council was not asked for ; but the sanction of the Council is sought for, after the expense has been incurred. As regards the emergency of the matter, I quite agree with the hon. the Advocate-General that such an emergency as the Simon Commission as he mentioned, does not arise either immediately or in the near future. I do not join issue with my hon. Friend there. But I do join issue with him and the Government on this issue, namely, what was the necessity for using the term 'emergency' for the purpose of getting the demand certified by His Excellency the Governor when the Council is in session ? We fear that, when the Council has been prorogued, many more important things, they may resort, by this process, to submit to His Excellency the Governor and get certified. We have the Whiteley Commission, we have the Madras Provincial Committee which is proposing to go to Simla, and we do not know . . ."

Mr. ALLADI KRISHNASWAMI AYYAR :—"Whether a particular question is emergent is a matter to be decided by His Excellency the Governor."

Mr. S. SATYAMURTI :—"It may be the same emergency may not recur. But he illustrated the 'emergency'. What we want to see is to prevent, following his brilliant lead, expenditure being incurred similarly in connection with other 'emergencies'. We want to condemn Government's action in submitting this proposal to the Governor. We fear that, when Government have chosen to invoke the Governor's aid when they ought to strictly speaking, seek the consent of the Council, in much more important things, they may ignore the Council altogether. That is the danger we are seeking to prevent. We want to give a warning to the Government that the provisions of section 72-D of the Government of India Act ought not to be resorted to, so far as this matter is concerned. If we do not do that, there may be fifty other emergencies, which may justify them to go to the Governor.

"As regards the Malabar Tenancy Committee, Sir, you may remember that the House had already voted a sum for that. Then the House was prorogued ; it was realized that the sum granted for the working of that committee was found insufficient, the need for the continuance of the committee was felt keenly and so the Government approached His Excellency the Governor."

* The hon. the PRESIDENT :—"I do not agree on the facts. The Council was prorogued, and after that the Malabar Tenancy Committee was constituted. The expenditure was authorized by His Excellency the Governor, and when that amount was not found sufficient, the Government came to the Council for sanction for a further grant."

Mr. S. SATYAMURTI :—"Yes, Sir, I stand corrected. So far as one portion of my argument is concerned, the facts support me ; that is the certification took place when the Council was not in session. The moment the Council was in session its consent was sought to be obtained. Therefore, Sir, the point which I wish to emphasise is that the present case is not of such a nature. It has caused irreparable injury. Therefore I submit that this is a matter of urgency for the public and the House and we feel that without a discussion on it we cannot prevent such wrongs being done in the future."

25th March 1929]

* Mr. ALLADI KRISHNASWAMI AYYAR :—" Mr. President, in the memorandum of the Government of Madras at page 91 there are a number of cases where Government approached His Excellency the Governor for certification."

Mr. S. SATYAMURTI :—" What is the document that the hon. the Advocate-General is reading from ? Is it a document that is or was placed on the table of this House ? " (Laughter.)

* The hon. the PRESIDENT :—" I think the hon. the Advocate-General can read it as he is not a Member of Government."

* Mr. ALLADI KRISHNASWAMI AYYAR :—" Sir, in 1921, 1922 . . ."

* The hon. the PRESIDENT :—" What is the date ? "

(The hon. the Advocate-General was perusing the document for ascertaining the dates.)

Dr. B. S. MALLAYYA :—" He has not read the document before." (Laughter.)

* Mr. ALLADI KRISHNASWAMI AYYAR :—" It is better to read it now than not at all.

" There are instances in 1923 and 1924. The exact dates are not given. Only the facts of several cases of this nature where technically the Council was not in session is given. But whether the Council was actually sitting at those times--that is a matter on which I suggest information may be called for."

* The hon. the PRESIDENT :—" The hon. Member said that the Council was sitting and in session."

* Mr ALLADI KRISHNASWAMI AYYAR :—" I said that by way of additional argument. I suggest that whatever may be the technical difference between ' in session ' and ' in sitting ' the reason which enabled Government to go to His Excellency the Governor in one case is equally applicable to the other case—in this case you have the emergency, between two meetings of the Council. Both the Montagu-Chelmsford Report and the Muddiman Report point out that the power of authorization is intended to be exercised and is not to be an obsolete provision."

Mr. S. SATYAMURTI :—" Quite so with regard to certification."

* Mr. ALLADI KRISHNASWAMI AYYAR :—" Both the certification power and the authorization power."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" I have to submit, Sir, some reasons for showing why you should not by exercising your discretion grant your consent to this motion."

A Voice :—" Consent has been already granted."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" Has consent been granted ? "

* The hon. the PRESIDENT :—" Yes, yes. Mr. Venkatapathi Raju has moved the motion only after that. "

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" If you have given your consent, I have nothing to say.

"But proviso (*a*) to section 72 D (2) says that where the Council has had an opportunity of considering a particular demand, and has refused its assent to that demand, the Governor is at liberty to certify the grant provided it relates to a Reserved subject. Proviso (*b*) says that on the ground of emergency the Governor can give his assent to certain items of expenditure. Suppose the Council refuses its assent to a particular demand and on the advice of Government His Excellency the Governor certifies it. That case falls under the phrase 'action of Government in submitting their proposals for expenditure.' In such circumstances, will a motion for adjournment be in order? I submit, not."

Mr. BASHEER AHMED SAYEED :—"That proves our point."

* The hon. the PRESIDENT :—"That is the ordinary procedure."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—"I submit, Sir, that if an adjournment motion in respect of certification after refusal by the House would not be in order, then the present case certainly would not be in order."

* The hon. the PRESIDENT :—"I want to know whether in October last when His Excellency sanctioned such an expenditure the Council was sitting."

* The hon. Sir NORMAN MARJORIBANKS :—"Such expenditure has been authorized by His Excellency on several occasions."

* The hon. the PRESIDENT :—"During the session?"

* The hon. Sir NORMAN MARJORIBANKS :—"That is my recollection. The expenditure is authorized by His Excellency on the occurrence of an emergency. For instance, last year in November he authorized expenditure in connexion with the floods. The Council was in session though not sitting."

11-45 a.m. * The hon. the PRESIDENT :—"Is it not possible to get that information immediately?"

* The hon. Sir NORMAN MARJORIBANKS :—"Yes, Sir, I will take steps to see that you get it now."

* Mr. G. HARISARVOTTAMA RAO :—"This is a question of authorizing expenditure and the hon. the Advocate-General has been telling us that the Governor has powers, and those powers are given to be put into motion. I submit the powers of the Governor are not at all in question here, but the conduct of the Government is in question. And the matter of certification is not an analogical matter in this affair. Certification is to be resorted to after the Council has refused to sanction a particular amount. But authorization of expenditure is an exceptional power vested in His Excellency the Governor to be exercised on the advice of the Government; and the Government has chosen to advise the Governor in regard to a particular matter now. In deciding whether we are in order or not, the essential point to be considered is whether this particular matter comes within the category of urgency or not. Even granting that, there may be some circumstance where a specially emergent sanction was given for an authorized expenditure, in cases like fire or flood; this is not a matter which comes under a category of that nature. We contend that this power has to be exercised on the advice of Government."

25th March 1929]

* The hon. the PRESIDENT :—" The only point that has to be considered is this. The Advocate-General said that it might be argued by the Opposition that it was a constitutional impropriety to go to the Governor in case the Council is in session. I have nothing to do with the question whether the expenditure is in connexion with a flood, or the military or the police. The only point with which I am concerned is whether it is a constitutional impropriety not to give an opportunity to the Council to discuss this matter."

Mr. P. C. VENKATAPATI RAJU :—" With regard to the argument of the hon. the Law Member that this is a stronger case than certification, I beg to point out that there is no analogy between the two. In one case the matter has been subjected to the vote of the House, and His Excellency the Governor at the time of authorization knows the views of the House and after considering those views could decide, whether adversely or not. But here the Government has advised the Governor without in any way indicating to him what the view of this House would be, which would certainly influence His Excellency in the matter of using his powers under that section."

* The hon. the PRESIDENT :—" Certification by the Governor in regard to a reduction made by the Council is one thing. The authorization of expenditure in the case of an emergency is a different thing. The question now is limited by the Advocate-General to this : even in cases where the Council is in session, the Governor may sanction such expenditure if the Council is not actually sitting at the time. And he says this is not the first instance of the sort. If this is the first instance, perhaps the Opposition may be justified, but there were instances in the past and they did not avail themselves of those instances for discussing the action of the Government. When it has thus become a regular procedure or practice, it cannot be discussed on an urgent motion. That is the point of the Advocate-General."

* Mr. Alladi KRISHNASWAMI AYYAR :—" One of my points."

* The hon. the PRESIDENT :—" From my point of view that is the main consideration."

* The hon. Diwan Bahadur M. KRISHNAN NAYAR :—" I submit my point is entirely different from that of the Advocate-General. The only provisions under the Government of India Act under which the Governor can certify or authorize expenditure are the provisos (*a*) and (*b*) to sub-section (2) of section 72-D. Proviso (*a*) says that after the Council has refused its assent, the Governor may certify, and proviso (*b*) says that in cases of emergency the Governor may authorize expenditure. These are the only two provisions under which the Governor can certify. So, I submit that these two stand exactly on the same footing with this difference, that the certification under proviso (*a*) is stronger as against the Government and that the present matter which comes under proviso (*b*) is less strong. So that if an adjournment motion with reference to certification under proviso (*a*) would not be in order, I submit this cannot be in order. So far as I can see, my hon. Friends on the other side till now have not met this argument."

* Mr. J. A. SALDANHA :—" May I draw attention, Sir, to certain dates? This order is dated 23rd February 1929. The Simon Commission had come here, the police of Malabar and other places had been brought, and they were displayed and the military were displayed all over the city long before that.

We met, I think, on the 25th February, and probably there were some supplementary demands placed before this House and granted on the 25th or 26th, and on those days it would have been very easy for the Government to place these items before this Council instead of passing the order on the 23rd February 1929."

* The hon. the PRESIDENT :—" You are going into the merits of the case."

Mr. J. A. SALDANHA :—" I am not going into the merits, Sir; I want to point out that there is the emergency about this."

* The hon. the PRESIDENT :—" What the hon. Member was speaking about related to the merits of the case."

Mr. S. SATYAMURTI :—" I only wanted to meet my hon. Friend the Law Member's point. The gravamen of our charge is not that the House has given a particular vote and the Governor vetoed it. . ."

* The hon. the PRESIDENT :—" I do not agree with Mr. Krishnan Nayar regarding that aspect of the case. I am only seeing whether there were many instances in the past when this procedure was resorted to while the Council was in session. And I find here at least one instance in the appropriation accounts :

' . . . improvements to the residence occupied by the Sub-Collector of Madanapalle, Rs. 22,600. The amount was authorized on the 7th December 1927, and under instructions from the Government, the Executive Engineer deposited on the 5th January 1928 a sum of rupees, etc., . . .

" That was in December 1927 when the Council was in session though not actually sitting. I remember in 1928 His Excellency the Governor authorizing an expenditure for flood relief. I think there were other instances also."

* Mr. S. SATYAMURTI :—" On that, as I have already submitted, I have no doubt. But as regards the question of 'emergency,' it will certainly lie with you. As for the dates on which the Council has actually met, as my hon. Friend said, this certification is dated 23rd February 1929, and as a matter of fact the Council met on 25th February 1929. It is quite open to the Government to say 'we are dealing with an emergency. The Council is not sitting now and we cannot get its sanction,' and incur the expenditure. And then the Government could have come before this Council, a few days afterwards, with a supplementary or excess grant."

* Mr. Alladi KRISHNASWAMI AYYAR :—" On a point of order, Sir; the question of emergency is a question of degree." (Voices : 'That is no point of order.')

* Mr. S. SATYAMURTI :—" I am thankful to my hon. Friend, the Advocate-General, for the interruption. He says the question of emergency is a question of degree. But my submission in this case is that this degree is not a proper degree. The Government could have waited for three days and come forward with a supplementary demand and take our vote on it. There was no urgency. It was only a matter of two days. The Government could have waited for these two days and then could have come to us on the 25th and got the grant from the House. My only submission is that it could not be contended with any reason that the delay of two days was so great that the Government could not wait. . ."

25th March 1929]

* The hon. the PRESIDENT :—"That is again going into the merits."

* Mr. S. SATYAMURTI :—"I am only saying, Sir, that the Government could have easily waited. We say that the Government should have accepted our view that the emergency should be much more than that to warrant this procedure."

The Mr. hon. T. E. MOIR :—"I would just like to ask, with the permission of the Chair, whether it is not the case that ten days' notice has to be given before any supplementary demand can be moved in the House."

* Mr. S. SATYAMURTI :—"They could have given the notice on the day the notices summoning this Council were sent to us."

The hon. Mr. T. E. MOIR :—"I am asking with reference to the point whether we could move that demand on the 25th February."

* Mr. G. HARISARVOTTAMA RAO :—"The President could waive notice, Sir."

* The hon. the PRESIDENT :—"As to the correct interpretation of the second proviso to section 72-D (2) of the Government of India Act, the Opposition may express their views separately on a suitable motion framed and notified according to rules. If they do so, I have no doubt that the Government will give them facilities for its discussion. So far as this motion is concerned, I think it is out of order. But I hope Government will give a suitable opportunity as early as possible for the Opposition to express their opinion regarding the question of emergency."

III

MOTIONS ON THE BUDGET FOR 1929-30.

DEMAND XXVII—INDUSTRIES—*cont*..

The hon. the PRESIDENT :—"The House will now resume discussion on Demand XXVII—Industries. Mr. Gopala Menon will continue his speech."

* Mr. C. GOPALA MENON :—"Mr. President, Sir, I was speaking with regard to the usefulness of the Leather Trades Institute on Saturday, as I began my speech, and tried to show how far it has served the purpose for which it was created, whether the tanners in this province have in any way been benefited by having that institute. Our problem is how in this province our small industries, our subsidiary industries including home industries, handicraft industries, and art industries, could best be developed. Our tanning industry is a new industry. It received new and fresh impetus during the time of the war. At that time our province supplied tanned skins and hides to Great Britain. But the process of tanning has not come up to the standard which the European countries and America have attained to-day. (A voice : 'Why not ?') Because the process of tanning has not come up to that acme of perfection as is practised in the European and American countries. We, however, certainly, have got natural advantages for developing this industry. We have got suitable barks and water required for tanning purposes and also skilled workmen. But yet the tanning materials are of a wild growth and the quantity that we can get is not enough. One of the best tanning materials now used is the avaram bark, and that tanning material